

VAR 554

CERTIFIED MAIL

December 22, 1993

Mr. Raymond Jean-Pierre
346 Kukuau Street
Hilo, HI 92720

Dear Mr. Jean-Pierre:

Variance Application (VAR 93-62)
Petitioner: Raymond Jean-Pierre
Variance From Minimum Eight Feet Side Yard Setback and Four
Feet Side Yard Open Space Requirements
Tax Map Key: 2-3-41:02

FINDINGS AND RECOMMENDATION

After reviewing your variance application and the information submitted in behalf of it, the Planning Director hereby certifies the approval of a variance request to allow an addition to an existing single family dwelling to be built with a side yard of 4.0 feet and a side yard open space of 1.5 feet \pm in lieu of the minimum 8.0 feet side yard setback and minimum 4.0 feet open space yard as required in Chapter 25 (Zoning Code), Article 4 (RS, Single Family Residential Districts), Section 25-124 (a)(2)(A) (Minimum yards) and Chapter 25 (Zoning Code), Article 1 (General Provisions), Division 10 (Supplementary Yard and Open Space Regulations, Section 25-66(a)(1) (Projections into required yards and open spaces).

The subject property's address is 346 Kukuau Street, Hilo, Hawaii, 96720. The subject property abuts Kukuau Street and Inia Lane approximately 780 feet southwest (Mauka direction) of the Kukuau Street/Kapiolani Street intersection in the area in South Hilo commonly referred to as Kukuau. The subject property is commonly referred to as tax map key parcel number 2-3-41:02 (TMK: 2-3-41:02).

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The Planning Director has concluded that the variance request from the minimum 8.0 feet side yard and the minimum 4.0 feet open space setback requirements should be approved, based on the following findings:

SPECIAL AND UNUSUAL CIRCUMSTANCES

There are special and unusual circumstances that exist which would warrant or necessitate a waiver from the minimum side yard setback requirements for a proposed addition to an existing two (2) story single family dwelling situated on the subject parcel with a stated land area of 4,775 square feet and average width of 30 feet \pm . The configuration of the subject property appears to be parallelogram form and slopes from street to a level area of the property where the existing dwelling and proposed addition will be built. The subject parcel is zoned Residential (RS-7.5). The minimum building site area and minimum building site average width is 7500 square feet and 60 feet, respectively. The subject parcel's land area and width do not meet lot standards of the Zoning Code adopted in 1967. The existing two (2) story post and pier dwelling consisting of a carport on the ground level and approximately 620 square feet of living area on the second floor was built and established before the Zoning Code was adopted in 1967. The original two (2) story dwelling does not meet the mauka side yard setback and open space requirement(s).

The dwelling on the subject property is situated approximately 24 \pm feet away from the Kukuau Street right-of-way and appears to be situated in excess of 20 feet from the existing structure(s) on the adjacent parcel commonly identified as empty parcel number 2-3-41:3 (TMK: 2-3-41:3). The proposed addition will consist of utility/storage area on the first floor and additional living area on the second floor.

The Variance Request - Attachment received November 5, 1993, states:

"The subject parcel is situated in downtown Hilo in the area commonly referred to as Kukuau and abuts Kukuau Road and Inia Lane. The parcel's address is 346 Kukuau Street and is approximately 780 feet mauka of the intersection of Kukuau Street and Kapiolani Street. It appears the original parcel was created a very long time ago and according to a recent 1977 survey by Murray, Smith & Assoc., Ltd., contains 4775 square feet and is approximately 30.24 \pm feet wide. The parcel is zoned

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Single Family Residential (RS-7.5). I would like to rehabilitate the existing dwelling (700 square feet \pm) and make an addition. A Variance from the Zoning Code to rehabilitate the existing dwelling and proposed building addition with a 4 foot side yard setback is requested in lieu of the required minimum eight feet based on the following:

1. If the minimum side setbacks of 8 feet are imposed, the buildable width available is 14.2 feet \pm . The existing residential building is approximately 18 feet \pm wide. The proposed addition will preserve the character of the older dwelling and be architecturally compatible to other similar dwellings in the area.
2. The existing two story dwelling is of post and pier construction with room for parking and storage area beneath the living area. I am proposing to repair the existing two story dwelling and add additional living space.
3. The existing parcel and dwelling was built and established before the adoption of the Zoning Code in 1967. The proposed dwelling, repairs, restoration and improvement will not cause substantial adverse impact to the Kukuau area and to the adjoining properties.

The variance request would be consistent with the general purpose of the zoning district and not be detrimental to the surrounding properties or the public's health and welfare."

Therefore, considering the foregoing facts, it is determined that there are special or unusual circumstances applying to the subject property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the applicant. Alternatives available to the applicant include reducing the proposed addition within the defined buildable area of the property prescribed by the Zoning Code. The applicant would

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like to preserve and rehabilitate the existing dwelling built and established on the property prior to 1967 and add additional living space to the existing dwelling. The addition of a enclosed utility/storage room, bathroom, kitchen, and additional living space will provide a better living environment for the applicant and his immediate family. The proposed dwelling addition will meet minimum front and makai side yard building setbacks. The non-conforming parcel size and the location of the existing two (2) story dwelling limits any building addition parcel width. The existing dwellings' location and roof line limits the potential for a building addition. The proposed building construction plan submitted with the variance application preserves the original buildings' proportion, the older dwelling's character, and attempts to integrate the roof line with the older roof. The applicant's proposed addition and selection of building materials will preserve the character of the original structure and be architecturally compatible with the surrounding older dwellings/structures along Kukuau Street and Inia Lane.

Based on the above and foregoing considerations, the existing parcel's and existing dwelling's location limits the amount of available building space within the parcel. Therefore, while there may be alternatives available to the applicant, they are deemed to be unreasonable and would place excessive demands on the petitioner when a more reasonable alternative is available by the granting of this variance application.

INTENT AND PURPOSE

The intent and purpose of requiring building setbacks within a subdivision is to assure that adequate air and light circulation is available between structures and property lines. The existing two (2) story dwelling on the subject property met with and complied with all setback requirements when it was originally constructed. The proposed addition shown on the building construction plans submitted with variance application will use the existing dwelling's floor and roof line(s). The major building encroachment into the mauka side yard will be the staircase and roof eave. The proposed building addition and proposed building projection(s) will preserve the existing dwelling's character and fit into the Single Family Residential character of the neighborhood.

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The most directly affected property is the adjacent property identified as tax map key parcel number 2-3-41:3 (TMK: 2-3-41:3). The original use of the stone structure(s) on parcel 3 was for the Serrao Winery. The location of the original stone distillery building and non-conforming use within the original stone distillery was established before the Zoning Code was adopted in 1967. A building permit in 1992 was issued for a new dwelling on the western portion of parcel 3. There is a concrete driveway and parking area between the structures on parcel 3 and common side property lines between parcel 3 and the subject parcel 2. The applicant's proposed building addition will be situated in excess of 20' feet from the original Serrao Winery building and in excess of 30' feet from the dwelling on parcel 3. The distance between the structures situated on parcel 3 and the applicant's dwelling addition situated on subject parcel 2 will ensure there is adequate space for the necessary light, air and circulatory requirements. As such, the proposed building encroachment into the mauka side yard setback will not visually, physically or adversely affect the rights of the property owner(s) of parcel 3.

There were also no objections from any surrounding property owners to the proposed variance request.

Based on the foregoing findings, this variances request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan; will not be materially detrimental to the public's welfare; and will not cause substantial adverse impact to the areas character and to adjoining properties.

This variance request is approved, subject to the following conditions:

1. The applicant, its assigns or successors, shall be responsible for complying with all stated conditions of approval;
2. The approval of this variance is only from the Zoning Code;
3. The proposed building improvement shall be subject to requirements of Codes and Statutes to building construction;
4. A building permit for the proposed building addition shall be secured from the Department of Public Works; and,

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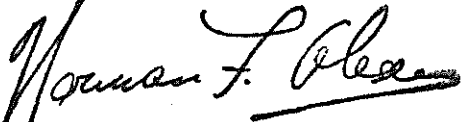
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5. Future building improvement shall be subject to State and County regulations pertaining to occupancy and building construction.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia Goldstein", written over a horizontal line.

VIRGINIA GOLDSTEIN
Planning Director

WRY:eti/mjs .
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